THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 25540 of 1998

Oral order:

The petitioner's father while working as Driver with the respondents-APSRTC as Driver, was declared medically unfit and was retired from service, vide proceedings dated 31.08.1992 of the 4th respondent. Consequent upon his retirement, he made representation to the respondents to provide appointment to the petitioner as Cleaner, and subsequently he died on 15.06.1994. The respondents included the name of the petitioner in the seniority list, and he was directed to apply for Basic Training Course vide letter dated 19.10.1994. The petitioner submitted his application for Basic Training Course on 25.12.1995. However, vide proceedings dated 27.01.1996, the 4th respondent returned the application of the petitioner on the ground that he was over aged by one month and twenty one days as on 01.07.1996. The petitioner states that though he made representations in succession seeking to consider his case for appointment as per the provisions of Circular No. PD-85/89, dated 06.07.1989, but no action thereon had been taken by the respondents till date. Hence, he filed the present writ petition seeking directions to the respondents to consider his case for appointment as Cleaner as per Circular No. PD-85/89, dated 06.07.1989.

Though the petitioner sought consideration of his case for appointment as Cleaner in terms of the provisions of Circular No. PD-85/89, dated 06.07.1989, but when the writ petition was taken up for hearing, the learned counsel for the petitioner submitted that in view of the judgment of the Division Bench of this Court in **Sk. Ahmad Ali Shah v. Divisional Manager, APSRTC**[1], wherein it was held that providing preferential claim for employment in favour of children of employees is not proper, he is not seeking the relief of appointment. He, however, submitted that since as on the date when the petitioner's father was retired on medical grounds, Circular No.PD-85/89, dated 06.07.1989, which provided for grant of additional monetary benefits in case the employee is not seeking appointment for his children, was in force, and having regard to the fact that the respondents are not

providing him employment, he is entitled to claim additional monetary benefits in lieu of appointment, and hence prayed for a direction to the respondents to pay the petitioner additional monetary benefits in lieu of appointment.

The respondents filed counter. The learned Standing Counsel for the respondents-APSRTC reiterating the counter averments submitted that since the petitioner passed SSC compartmentally and was over aged by one month and seven days, his case for Basic Training Course, which culminates in providing employment to the petitioner, was rejected. He submitted that petitioner's father was paid all the benefits like PF and GPF etc., and therefore, he is not entitled to additional monetary benefits. This apart, as per the Circular referred to by the petitioner, only the children of the deceased alone are entitled to appointment on grounds, and therefore, no exception can be taken to the action of the respondents in not considering and providing appointment to the petitioner.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents-APSRTC.

The petitioner, admittedly, is the son of an employee, who was retired on medical grounds. Having regard to the judgment of the Division Bench of this Court in **Sk. Ahmad Ali Shah v. Divisional Manager, APSRTC**, wherein it was held that providing preferential claim for employment in favour of children of employees is bad, the petitioner being the son of an employee of the respondents, who was declared medically unfit, is not entitled for any appointment.

It is the contention of the petitioner that since the respondents are not providing him employment, as per Circular
No. PD-85/89, dated 06.07.1989, issued by the Corporation, he is entitled to receive additional monetary benefits, which were not paid to his father, who was retired on medical grounds. The respondents in their counter admitted that the Circular
No. PD-85/89 dated 06.07.1989 deals with cases where additional monetary benefits are not paid to medically unfit employees. Though they further stated in the counter that the petitioner's father was paid all the benefits like PF and GPF etc., they have not specifically stated whether the petitioner's father was paid additional monetary benefit in lieu of employment to his son.

Be that as it may, a perusal of the contents of Circular No. PD-85/1989, dated 06.07.1989, would disclose that the Board vide

resolution Nos. 67/1985, dated 09.04.1985 and 139/1985, dated 02.08.1985, had approved a scheme for extending monetary benefit, in additional to their terminal benefits like Provident Fund and Gratuity to the employees retired from service on medical grounds under Regulation 6A(4) of the APSRTC Employees (Service) Regulations, 1964 (hereinafter referred to as 'the Regulations') and to employees retired voluntarily from service under Regulation 6(i)(a) of the said Regulations, taking into consideration the left over service. The said Regulations 6(A)(4) and 6(i)(a) of the Regulations, were amended vide Office Notification dated 06.07.1989, and they were sought to be implemented under Circular No. PD-85/1989, dated 06.07.1989. As per the amended Regulations, in the event the employee retired on medical grounds, prefers employment to his eligible son/daughter, as per the instructions issued from time to time, then he is not eligible for any additional monetary benefit, calculated on his left over service. Thus, it is clear that additional monetary benefit, calculated on the left over service, is paid to the retired employee, in the event he does not prefer employment to his eligible son/daughter. Inasmuch as in the instant case, the petitioner is not claiming employment in view of his father's retirement on medical grounds, having regard to the provisions of Circular No. PD-85/1989, dated 06.07.1989, the respondents have to examine whether the petitioner is entitled for payment of additional monetary benefit, calculated on the basis of his father's left over service, in terms thereof.

In the above view of the matter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondents are directed to consider the case of the petitioner for payment of additional monetary benefit in lieu of employment in terms of Circular No. PD-85/1989, dated 06.07.1989, if the benefits as provided therein were not paid to the petitioner's father, and in the event they remained unpaid, then they shall calculate the amounts payable, based on the formula indicated therein, and pass appropriate orders for payment thereof, within a period of six weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Dated: 8th August 2007.
KSR

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[1] 1996 (4) ALD 35 (DB)